

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.833 of 2016
and
CrI.M.P.(MD)No.12146 of 2016

Immanuvel ... Revision Petitioner/Appellant/Sole Accused

vs.

State Rep. by
The Inspector of Police,
South Thamaraikulam Police Station,
Kanyakumari District.
Crime No.495 of 2000 ...Respondent/Respondent/Complainant

PRAYER : This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., to set aside the conviction and sentence imposed on him by the judgment dated 15.09.2016 made in C.A.No.126 of 2006 on the file of the learned Fast Track Mahila Court, Nagercoil, Kanyakumari District thereby modifying the order of conviction dated 22.05.2006 made in Sessions Case No.25 of 2002 on the file of the learned III Additional Assistant Sessions Judge, Nagercoil, Kanyakumari (Trainee District Judge).

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. side)

ORDER

This Criminal Revision Petition is directed against the conviction and sentence imposed on the petitioner by judgment dated 15.09.2016 made in C.A.No.126 of 2006 on the file of the learned Fast Track Mahila Court, Nagercoil, Kanyakumari District by modifying the order of conviction dated 22.05.2006 made in Sessions Case No.25 of 2002 on the file of the learned III Additional Assistant Sessions Judge, Nagercoil, Kanyakumari (Trainee District Judge).

2.The case of the prosecution is that when the victim who was aged about 13 years was reaching home, the petitioner used to tease her. While being so on 02.09.2000 at about 06.30 p.m., when the victim was returned to her house after taking bath in the Palayar river, which is nearby to her house, the petitioner/accused intercepted her and gagged her mouth by his right hand and dragged by force to the Aundikonar Vilai Compound and committed rape on her under palm tree.

3.On the basis of the complaint, the respondent police registered an FIR in Crime No.495 of 2000 for the offences under Section 376 IPC and Section 4 of Eve Teasing Act 1988. The respondent police, after

completing the investigation, has filed a final report and the same has been taken cognizance by the trial Court for the offence under Section 376 IPC and Section 4 of Eve Teasing Act 1988.

4.In order to bring the charges to prove, the prosecution had examined 8 witnesses as P.W.1 to P.W.8 and 14 documents were exhibited as Ex.P.1 to Ex.P.14. The prosecution had also produced one material objects as M.O.1. On the side of the accused, no one was examined and no document was marked.

5.On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offences under Sections 376 IPC and acquitted the petitioner from the charge under Section 4 of Eve Teasing Act and he was sentenced to undergo Rigorous Imprisonment for the period of 7 years. Aggrieved by the same, the petitioner has preferred an appeal. The Appellate Court though confirmed the conviction for the offence under Section 376 IPC, reduced the sentence from 7 years to 4 years. Hence the present revision.

6.The learned counsel for the petitioner would submit that the Doctor, who treated the victim, categorically deposed that the victim did

not have any injuries on her private part and no such evidence to show that she was raped by the petitioner. The prosecution has also failed to recover any material from the victim in order to prove that the petitioner had committed rape on her. He would further submit that the petitioner had fell in love with the victim girl and in order to separate the petitioner and the victim, a false complaint has been lodged as against the petitioner and the petitioner has not committed any offence as alleged by the prosecution.

7.The learned Government Advocate (Crl. side) would submit that in order to prove its case for the offence under Sections 376 of IPC, the prosecution had examined P.W.1 to P.W.8 and marked 14 documents as Ex.P.1 to Ex.P.14 and also produced one material object as M.O.1. The victim categorically deposed that the petitioner committed rape on her. Therefore, the victim evidence is the best evidence in order to prove the charges. Admittedly, the victim was minor at the time of the alleged occurrence. Therefore, the Courts below had rightly convicted the petitioner. Hence, he prayed for dismissal of this revision.

8.Heard the learned counsel on either side and perused the materials available on record.

9.The victim was aged about 14 years at the time of occurrence. When the victim, after taking bath, went to her house, the petitioner intercepted her and had taken her to remote place and committed rape on her.

10.On perusal of the evidence of P.W.1 reveals that the petitioner also used to eve teasing her on so many occasions. On the date of occurrence, when she went for taking bath nearby river and after taking bath, when she was running to her house, the petitioner intercepted and gagged her mouth and he dragged her to Auntikonar Vilai Compound and committed rape on her under the palm tree. It was informed to her mother. Next day, her mother lodged a complaint before the respondent police. After the occurrence, the petitioner also threatened her not to spoke anybody about the incident. P.W.2, who is the mother of the victim, deposed that P.W.1 is her second daughter. They know the petitioner herein. Thereafter, she was taken the hospital and P.W.4 had examined her. P.W.4 opined that no opinion can be given. The victim categorically stated that the petitioner committed rape on her. In fact, the blood stained petticoat (underskirt) was produced by the prosecution as M.O.1. That apart, there is no delay in lodging the complaint. In fact, it is a case of rape, the delay is immaterial. Since due to the act of the accused, the

victim girl was under mental and physical shock and as such it can be expect from the victim girl to speak about the occurrence immediately. Further, the settled principles of law is that the conviction can be founded on testimony of prosecutrix alone unless there are compelling reasons for seeking corroboration. The evidence of prosecutrix is more reliable than that of an injured witness. Therefore, the Courts should find no difficulty in acting on the testimony of a victim of sexual assault. The corroboration as a condition for judicial reliance on testimony of prosecutrix is not a requirement of law but a guidance of prudence under given circumstances. The evidence of the prosecutrix is more reliable than that of an injured witness. Even minor contradictions or insignificant discrepancies in the statement of the prosecutrix should not be a ground for throwing out an otherwise reliable prosecution case. If evidence of the prosecutrix inspires confidence, it must be relied upon without seeking corroboration of her statement in material particulars.

11. Therefore, in the case on hand, the prosecutrix categorically deposed that the accused was committed rape on her. In fact, at the time of occurrence, the victim was aged about 14 years. In support of her contention, the petticoat of the victim was produced before the trial Court as M.O.1. Therefore, both the Courts below have rightly convicted the

petitioner for the offence under Section 376 of IPC and this Court finds no infirmity or illegality in the order passed by both the Courts below.

12.In view of the above, this Criminal Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. However, the respondent police is directed to secure the petitioner/accused and proceed in accordance with law.

17.03.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

- 1.The The Inspector of Police,
South Thamaraiikulam Police Station,
Kanyakumari District.
- 2.The Fast Track Mahila Court,
Nagercoil, Kanyakumari District.
- 3.The III Additional Assistant Sessions Judge,
Nagercoil, Kanyakumari (Trainee District Judge).
- 4.The Section Officer,
VR Section, Madurai Bench of Madras High Court,
Madurai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

G.K.ILANTHIRAIYAN , J.

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